

7/01/05 Version

## **Chapter 15 - Ancillary and Other Cross-Border Cases**

### **11 U.S.C. §§ 1501 et. seq.**

### **BR Act Section 801**

*Chapter 15, which replaces the former section 304 of the Code, is an entire new chapter which incorporates the Model Law on Cross-Border Insolvency completed by the United Nations Commission on International Trade Law (UNCITRAL) in 1997. The new chapter encourages cooperation between the United States and foreign countries in connection with international insolvency cases.*

- I. Case Commenced by a Petition for Recognition filed by a Foreign Representative, using Official Form 1 (petition form), minus schedules and statements
  - A. Court assigns chapter 15 case number;
  - B. Court collects appropriate fee<sup>1</sup>;
  - C. The petition for recognition shall be accompanied by documents evidencing the foreign proceeding and the appointment and authority of the foreign representative;
    1. These documents shall be translated into English;
  - D. The court will set a hearing on the petition, with notice of the hearing being sent by the foreign representative.
  - E. Pending recognition, a foreign representative may seek provisional or temporary relief if urgently needed.
- II. Order Granting/Denying Petition for Recognition
  - A. If recognition is granted, a foreign representative may seek additional relief, including:
    1. Commencing a full case under the Code, either voluntary or involuntary;
      - a. the subsequent case will be a new case under the

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<sup>1</sup> This fee, which is the same as the fee charged for filing a case under chapter 11, is set forth at Item 16 of the Miscellaneous Fee Schedule for Bankruptcy Courts. The language of the item, which currently references petitions "ancillary to a foreign proceeding under § 304", shall be amended to reflect a filing under chapter 15.

appropriate chapter of the Code, and will not be a chapter 15 case;

- b. Prior to filing a new case, the foreign representative must indicate their intent to do so with the “recognizing” court.
  - 2. Providing for the examination of witnesses or the taking of evidence;
  - 3. Administration of the debtor’s assets and affairs.
- B. If recognition is denied, a foreign representative may not proceed in another court.